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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3250 OF 2005

The Deputy Director
Social Forest Division, Satara ... Petitioner
V/s.
Bhimrao Dhondiram Mhaske ... Respondent

a/w
WRIT PETITION NO.3251 OF 2005

The Deputy Director
Social Forest Division, Satara ... Petitioner
V/s.
Haridas Gangaram Ingale ... Respondent

a/w
WRIT PETITION NO.3252 OF 2005

The Deputy Director
Social Forest Division, Satara ... Petitioner
V/s.
Hanmant Rajaram Pawar ... Respondent

a/w
WRIT PETITION NO.3253 OF 2005

The Deputy Director
Social Forest Division, Satara ... Petitioner
V/s.
Vijay Mahadeo Pharande ... Respondent

AND
WRIT PETITION NO.3255 OF 2005

The Deputy Director
Social Forest Division, Satara ... Petitioner
V/s.
Dilip S. Kadam ... Respondent

Mr.D.A. Patil, AGP, for Petitioner

Ms.Aarti P. Bhide for Respondent in W.P. Nos.3252 of 2005, 3253 of 2005 and 3255 of 2005

None for Respondent in W.P. Nos.3253 and 3255 of 2005

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **JULY 11, 2007**

P.C.:

. These petitions raise the same issue as to whether when the Industrial Court recalls its order which was passed in the absence of the revision applicant and restores the revision applications, can another member of the Industrial Court hold that the revision applications could not be restored since they were decided on merits.

2. By order dated 4.1.1996, the Labour Court allowed the complaints filed by the respondent-workmen in each of these petitions. The petitioners were directed to reinstate each of the workmen with continuity of service and without backwages. It was observed that since the workmen were in employment in view of the interim orders passed by the Labour Court, they were to be continued in employment subject to the service rules and conditions of the petitioner. The petitioner, aggrieved by these orders, filed revision applications against each of the orders passed in the complaints. Those revision applications came up for hearing on 4.7.2002. The Industrial Court dismissed the revision applications since the applicants and their advocate was absent when the matters were called out. Some observations were also made on the merits of the

case. An application was made on that very date by the applicants for restoring the revision applications. The Industrial Court recalled the order passed in the morning session and restored the revision applications. The revision applications then came up for hearing before another Member of the Industrial Court on 6.8.2004. By the impugned order, the Industrial Court held that his predecessor could not have restored the revision applications since he had become functus officio after dismissing the same in the morning session.

2. There is no challenge to the matters being restored by the workmen. The Industrial Court could not therefore, on 6.8.2004 make any observation to the effect that the order passed on 3.7.2002 could not have been recalled by his predecessor. The order has obviously been passed because of the absence of the applicants. It is observed in the order:

> "the revision petitioner failed to bring to my notice any illegality or perversity in the findings drawn by the Labour Court. ..."

This was evidently because of the absence of the revision petitioners and/or their advocate. In any event, the Industrial Court while passing the impugned

order could not have sat in appeal over the order passed by another Member of the Industrial Court, restoring the revision applications.

3. Hence, the impugned orders in each of these petitions are set aside. The revision application Nos.8 of 1996, 5 of 1996, 7 of 1996, 6 of 1996 and 68 of 1996 are restored to file. The Revision applications shall be heard and disposed of within three months from today.

4. It appears that the workmen were entitled to be reinstated after the orders were passed on the interim applications in the complaints. These orders were confirmed and therefore, the workmen must be reinstated before the revision applications are heard.

5. Petitions are disposed of accordingly.